

EXHIBIT 102

In the Matter Of:

UNITED STATES OF AMERICA v

GOOGLE, LLC

ITAMAR SIMONSON, PH.D.

February 28, 2024



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

- - -

UNITED STATES OF : CASE NO.
AMERICA, et al., : 1:23-cv-00108
: -LMB-JFA
Plaintiffs, :
:
v. :
:
GOOGLE, LLC, :
:
Defendant. :

- HIGHLY CONFIDENTIAL -

- - -

February 28, 2024

- - -

Videotaped deposition of
ITAMAR SIMONSON, Ph.D., taken pursuant to
notice, was held at the law offices of
Paul, Weiss, Rifkind, Wharton & Garrison
LLP, 2001 K Street, NW, Washington, D.C.,
beginning at 9:32 a.m., on the above
date, before Michelle L. Gray, a
Certified Shorthand Reporter, Registered
Professional Reporter, Certified Court
Reporter, Certified Realtime Reporter,
and Notary Public.

- - -

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1 APPEARANCES:

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Nathaniel Avila - Zoom
(Lexitas)
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1 - - -
2 I N D E X
3 - - -
4

5 Testimony of:

6 ITAMAR SIMONSON, Ph.D.

7 By Ms. Wood 8, 385
8 By Ms. Dearborn 381
9

10 - - -

11

12 E X H I B I T S

13 - - -

14 NO.	DESCRIPTION	PAGE
15 Simonson		
16 Exhibit 1	Expert Report	11
	Itamar Simonson	
	1/23/24	
17 Simonson		
18 Exhibit 2	Appendix B	12
	Testimony List	
19	Of Simonson	
20		
21		
22		
23		
24		

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1 - - -
2 DEPOSITION SUPPORT INDEX
3 - - -
4
5 Direction to Witness Not to Answer
6 PAGE LINE PAGE LINE PAGE LINE
None.
7
8 Request for Production of Documents
9 PAGE LINE PAGE LINE PAGE LINE
None.
10
11 Stipulations
12 PAGE LINE PAGE LINE PAGE LINE
None.
13
14 Questions Marked
15 PAGE LINE PAGE LINE PAGE LINE
None.
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1 - - -
2 THE VIDEOGRAPHER: We are
3 now on the record.
4 My name is Jason Levin.
5 I'm a videographer retained by
6 Lexitas.
7 Today's date is
8 February 28, 2024, and the video
9 time is 9:32 a.m. Eastern.
10 This deposition is being
11 held at the offices of Paul Weiss
12 in Washington, D.C., in the
13 matter of USA versus Google.
14 The deponent is Dr. Itamar
15 Simonson.
16 All counsel will be noted
17 on the stenographic record.
18 The court reporter is
19 Michelle Gray and will now swear
20 in the witness.
21 - - -
22 ... ITAMAR SIMONSON, Ph.D.,
23 having been first duly sworn, was
24 examined and testified as

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1 follows:
2 - - -
3 EXAMINATION
4 - - -
5 BY MS. WOOD:
6 Q. Good morning, Professor
7 Simonson. We met off the record. My
8 name is Julia Wood. I'm from the United
9 States Department of Justice. I'll be
10 asking you some questions today.
11 Can you state your full name
12 for the record.
13 A. Itamar Simonson.
14 Q. And do you still reside at
15 your address in Burlingame, California?
16 A. Partially. I do have that
17 address, but I actually spend more time
18 in Seattle. Now that I'm emeritus
19 professor and no longer teach, I spend
20 most of my time in Seattle, where my kids
21 and grandkids reside.
22 Q. And where is that in
23 Seattle?
24 A. It's 5416 Kirkwood Place

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1 North, Seattle, 98103.
2 Q. All right. And you
3 understand that you're under oath today,
4 correct?
5 A. Yes.
6 Q. And you are expected to
7 testify to the truth, and anything that
8 you say today can be used by the
9 Department of Justice in civil, criminal,
10 administrative, or regulatory cases or
11 proceedings?
12 A. Yes.
13 Q. Okay. And is there anything
14 that would prevent you from giving
15 complete and accurate information today?
16 A. No.
17 Q. As you can see, we have a
18 court reporter here and a videographer
19 here today. It's important for the court
20 reporter to be able to take down
21 everything that is said. So I would ask
22 you to give verbal answers instead of
23 nodding the head, and I'd ask you to
24 speak loudly and clearly and also to wait

Page 70	Page 72
<p>1 not give -- not estimate.</p> <p>2 Q. Do you have a range of hours</p> <p>3 that you would feel comfortable</p> <p>4 testifying to?</p> <p>5 A. Not really. I mean, I don't</p> <p>6 think it will be meaningful if I'd say</p> <p>7 it's between 100 and, I don't know, some</p> <p>8 higher number. I'm not sure it will be</p> <p>9 very meaningful.</p> <p>10 And as I said, I don't feel</p> <p>11 comfortable giving you any number, given</p> <p>12 the fact that I'm -- I'm just really</p> <p>13 not -- I don't have a good estimate.</p> <p>14 MS. WOOD: Whoever is on</p> <p>15 the phone, if you could please</p> <p>16 mute your line. We're hearing</p> <p>17 feedback from the phone.</p> <p>18 If that continues to be a</p> <p>19 problem, we will terminate the</p> <p>20 remote session.</p> <p>21 BY MS. WOOD:</p> <p>22 Q. You have records of the</p> <p>23 number of hours that you've worked on the</p> <p>24 matter?</p>	<p>1 Analysis Group work under your direction?</p> <p>2 A. Yes.</p> <p>3 Q. But they are paid by Google,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And you receive a percent --</p> <p>7 15 percent of whatever they are paid by</p> <p>8 Google?</p> <p>9 A. Yes.</p> <p>10 Q. Who made the decision to use</p> <p>11 Advertiser Perceptions in connection with</p> <p>12 this matter?</p> <p>13 A. I did.</p> <p>14 Q. And when did you make that</p> <p>15 decision?</p> <p>16 A. I don't recall, exactly. It</p> <p>17 would be, I think, the summer of 2023.</p> <p>18 Q. 2023?</p> <p>19 A. Yeah. Maybe slightly before</p> <p>20 that. Maybe. I don't know if June is</p> <p>21 part of the summer. But -- I don't</p> <p>22 remember exactly, but it was around that</p> <p>23 time period.</p> <p>24 Q. When did Analysis Group</p>
Page 71	Page 73
<p>1 A. Yes.</p> <p>2 Q. And you're preserving those</p> <p>3 records, right?</p> <p>4 A. Yes.</p> <p>5 Q. In your report, you indicate</p> <p>6 that you also receive compensation based</p> <p>7 on the professional fees of Analysis</p> <p>8 Group. What percentage of Analysis</p> <p>9 Group's fees do you receive?</p> <p>10 A. 15 percent.</p> <p>11 Q. Have you worked with</p> <p>12 Analysis Group before?</p> <p>13 A. I can think of three other</p> <p>14 matters.</p> <p>15 Q. How many people at Analysis</p> <p>16 Group are working with on you this</p> <p>17 matter?</p> <p>18 A. I'd say my -- the primary</p> <p>19 team consists of perhaps five, five</p> <p>20 people, maybe six people. But I assume</p> <p>21 that others, with whom I'm less familiar,</p> <p>22 have been involved in some limited</p> <p>23 capacity.</p> <p>24 Q. And did those individuals at</p>	<p>1 begin working on this matter?</p> <p>2 A. In 2021. Soon after I</p> <p>3 started working on this case.</p> <p>4 Q. And how did you make the</p> <p>5 decision to use Advertiser Perceptions on</p> <p>6 this matter?</p> <p>7 A. So I think, obviously, that</p> <p>8 was an important decision, and I wanted</p> <p>9 to do my due diligence, if you will, on</p> <p>10 that issue. So I learned about them,</p> <p>11 looked at other surveys or survey reports</p> <p>12 they have done. I interviewed a couple</p> <p>13 of people from Advertiser Perceptions. I</p> <p>14 think -- and I read about them, whatever</p> <p>15 I could find on the internet.</p> <p>16 Q. Did you consider any other</p> <p>17 entities to perform that role?</p> <p>18 A. I mean, initially, I think</p> <p>19 there were some other names that came up,</p> <p>20 but I don't think any of them -- that</p> <p>21 there was anyone I could find that had</p> <p>22 the capability to undertake such a</p> <p>23 survey.</p> <p>24 I mean, not to -- I guess,</p>

<p style="text-align: right;">Page 74</p> <p>1 not to brag, but this is a pretty</p> <p>2 complicated survey that required access</p> <p>3 to many advertisers and ad agencies, and</p> <p>4 I came to the conclusion that AP, or</p> <p>5 Advertiser Perceptions, is competent and</p> <p>6 has the panel of respondents that would</p> <p>7 allow me to conduct this survey, you</p> <p>8 know, as it should be.</p> <p>9 Q. Did you first learn about AP</p> <p>10 from Google?</p> <p>11 A. No.</p> <p>12 Q. How did you first learn</p> <p>13 about AP?</p> <p>14 A. I think I worked with the</p> <p>15 team at Analysis Group, and we were</p> <p>16 looking for companies that could help us</p> <p>17 conduct such a survey. And I think there</p> <p>18 was some names, and I think that the</p> <p>19 conclusion eventually was that there was</p> <p>20 really -- as far as we could tell, there</p> <p>21 was one company that had the capability</p> <p>22 to conduct such a survey, and that was</p> <p>23 AP.</p> <p>24 Q. What were the other names</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Did Katie and Andy end up</p> <p>2 working on the matter?</p> <p>3 A. I believe so. Perhaps Katie</p> <p>4 even more so.</p> <p>5 Q. Do you remember their</p> <p>6 titles?</p> <p>7 A. I -- I do not.</p> <p>8 Q. Do you remember their</p> <p>9 functions, even if you don't remember</p> <p>10 their title?</p> <p>11 A. If I'm not wrong, they're</p> <p>12 executive vice president or vice</p> <p>13 presidents. I'm not sure.</p> <p>14 Q. Okay. And you don't</p> <p>15 remember Katie's last name or Andy's last</p> <p>16 name?</p> <p>17 A. I do not.</p> <p>18 Q. And Advertiser Perceptions</p> <p>19 were retained by whom?</p> <p>20 A. Not by me, technically</p> <p>21 speaking.</p> <p>22 So I'm not sure exactly who</p> <p>23 formally retained them.</p> <p>24 Q. And did Advertiser</p>
<p style="text-align: right;">Page 75</p> <p>1 that came up?</p> <p>2 A. I don't recall.</p> <p>3 Q. You don't recall any of</p> <p>4 them?</p> <p>5 A. Any of them. As I said, it</p> <p>6 was a very short -- someone at AG said,</p> <p>7 well, I saw some --</p> <p>8 MS. DEARBORN: You do not</p> <p>9 need to disclose any --</p> <p>10 THE WITNESS: Okay.</p> <p>11 MS. DEARBORN: --</p> <p>12 communications between yourself</p> <p>13 and consulting staff at --</p> <p>14 THE WITNESS: Okay.</p> <p>15 MS. DEARBORN: -- at</p> <p>16 Analysis Group, under our expert</p> <p>17 stipulation.</p> <p>18 THE WITNESS: Okay. Sure.</p> <p>19 BY MS. WOOD:</p> <p>20 Q. Who were the people at AP</p> <p>21 that you interviewed?</p> <p>22 A. I remember their first</p> <p>23 names. One was Katie, the other one was</p> <p>24 Andy.</p>	<p style="text-align: right;">Page 77</p> <p>1 Perceptions work at your direction?</p> <p>2 A. Yes. I mean, I should note</p> <p>3 that Analysis Group also interacted with</p> <p>4 them.</p> <p>5 Q. So at times, Advertiser</p> <p>6 Perceptions took direction from Analysis</p> <p>7 Group?</p> <p>8 A. Yes.</p> <p>9 Q. And you had not worked with</p> <p>10 Advertiser Perceptions before this</p> <p>11 matter, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. At the time that you decided</p> <p>14 to use Advertiser Perceptions on this</p> <p>15 matter, were you aware that Google had</p> <p>16 used them in the past for surveys?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know how many people</p> <p>19 from Advertiser Perceptions are working</p> <p>20 on this matter or have worked on this</p> <p>21 matter?</p> <p>22 A. I'm not aware of -- other</p> <p>23 than those two, I'm not familiar with</p> <p>24 that. I mean, just in general when I</p>

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<p>1 they are the ads often appearing</p> <p>2 at the top. Not always. In the</p> <p>3 past they were on the right-hand</p> <p>4 side.</p> <p>5 Then there are the organic</p> <p>6 results.</p> <p>7 So these are all kinds of</p> <p>8 listings that are -- that appear</p> <p>9 as a consequence of a particular</p> <p>10 search.</p> <p>11 BY MS. WOOD:</p> <p>12 Q. And other than the surveys</p> <p>13 that are described in your report, which</p> <p>14 has been marked as Simonson Exhibit 1,</p> <p>15 did you conduct any other surveys in</p> <p>16 connection with your work on this matter?</p> <p>17 A. No.</p> <p>18 Q. Did you conduct any other</p> <p>19 preliminary interviews, other than the</p> <p>20 preliminary interviews of advertisers</p> <p>21 that are described in Simonson Exhibit 1?</p> <p>22 A. No.</p> <p>23 Q. You conducted no interviews</p> <p>24 with publishers?</p>	<p>1 going back on the record at</p> <p>2 11:25 a.m.</p> <p>3 BY MS. WOOD:</p> <p>4 Q. Mr. Simonson, in connection</p> <p>5 with your work on this matter, you</p> <p>6 arranged for 14 preliminary interviews to</p> <p>7 be conducted; is that right?</p> <p>8 A. Right.</p> <p>9 Q. What's the purpose of a</p> <p>10 preliminary interview?</p> <p>11 A. It depends. I can tell you</p> <p>12 what it was in this case.</p> <p>13 Q. Well, first, I'd like to</p> <p>14 know in general terms, why are</p> <p>15 preliminary interviews conducted in</p> <p>16 connection with surveys?</p> <p>17 A. I think it varies. And I</p> <p>18 should note that in most surveys in which</p> <p>19 I've been involved, I did not conduct</p> <p>20 preliminary interviews.</p> <p>21 Q. How often do you conduct</p> <p>22 preliminary interviews? What percentage</p> <p>23 of the surveys in which you're involved</p> <p>24 do you conduct preliminary interviews?</p>
Page 107	Page 109
<p>1 A. That's correct.</p> <p>2 Q. And no interviews with</p> <p>3 AdTech providers?</p> <p>4 A. Right.</p> <p>5 Q. At any point in time during</p> <p>6 your work in this matter, did you</p> <p>7 consider conducting a survey other than</p> <p>8 the surveys that were described in</p> <p>9 Simonson Exhibit 1?</p> <p>10 A. No.</p> <p>11 MS. DEARBORN: We've been</p> <p>12 going about an hour and</p> <p>13 40 minutes. Are you okay? Do</p> <p>14 you need a break?</p> <p>15 THE WITNESS: I'm okay, but</p> <p>16 whatever --</p> <p>17 MS. WOOD: We can take a</p> <p>18 break if you'd like a break.</p> <p>19 MS. DEARBORN: Sure.</p> <p>20 THE VIDEOGRAPHER: We're</p> <p>21 going off the record at</p> <p>22 11:09 a.m.</p> <p>23 (Short break.)</p> <p>24 THE VIDEOGRAPHER: We are</p>	<p>1 A. I -- very low. I cannot</p> <p>2 recall the last time I did.</p> <p>3 Q. So less than 10 percent?</p> <p>4 A. Well below less 10 percent.</p> <p>5 Q. So less than 5 percent?</p> <p>6 A. Yes.</p> <p>7 Q. And why is that?</p> <p>8 A. And we are talking about</p> <p>9 litigation.</p> <p>10 In general, I -- I rely on</p> <p>11 my judgment and my experience conducting</p> <p>12 thousands of surveys. Most questions are</p> <p>13 questions that I've used before in</p> <p>14 different contexts, so I have no -- no</p> <p>15 need to have qualitative interviews.</p> <p>16 Q. So what was different here?</p> <p>17 A. So as I said, in this case,</p> <p>18 I wanted -- we talked earlier about</p> <p>19 Advertiser Perceptions. I was curious to</p> <p>20 see -- to hear interviews with the kind</p> <p>21 of people that -- who will later</p> <p>22 participate in the survey.</p> <p>23 So I just -- you know, these</p> <p>24 were advertisers or agencies, and I just</p>

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<p>1 Q. I'd like you to turn to</p> <p>2 Question 20 of the preliminary interview</p> <p>3 guide. It's on Page D-5.</p> <p>4 Question 20 asked</p> <p>5 interviewers whether they define display</p> <p>6 advertising to include ads on social</p> <p>7 media sites, in-app ads, instream and</p> <p>8 outstream video ads, and direct ads.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And did you get answers to</p> <p>12 that from the 14 preliminary interviews?</p> <p>13 A. I believe so, yes.</p> <p>14 Q. And what were the answers to</p> <p>15 that?</p> <p>16 A. I do not recall.</p> <p>17 For the reasons that I just</p> <p>18 indicated, the content of the answers was</p> <p>19 not particularly important, given the</p> <p>20 limited purpose of those preliminary</p> <p>21 interviews.</p> <p>22 Q. And you made a decision not</p> <p>23 to ask that particular question in the</p> <p>24 survey that you ultimately launched,</p>	<p>1 Q. Question 23 of the</p> <p>2 preliminary interview guide asks the</p> <p>3 participant what they view as</p> <p>4 alternatives to certain types of display</p> <p>5 ads.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And Question 23 asks whether</p> <p>9 interviewees viewed social, in-app,</p> <p>10 video, and direct ads as alternative to</p> <p>11 display ads.</p> <p>12 Do you see that?</p> <p>13 MS. DEARBORN: Form.</p> <p>14 THE WITNESS: I do.</p> <p>15 BY MS. WOOD:</p> <p>16 Q. And did the participants</p> <p>17 answer that question?</p> <p>18 A. I don't recall specifically,</p> <p>19 but I assume so.</p> <p>20 Q. And do you recall what</p> <p>21 answers they gave about whether they</p> <p>22 viewed social, in-app, video, and direct</p> <p>23 ads as alternative to display ads?</p> <p>24 A. I do not recall the answers,</p>
Page 179	Page 181
<p>1 correct?</p> <p>2 A. Certainly not. I defined</p> <p>3 those terms.</p> <p>4 Q. But you didn't ask</p> <p>5 respondents to the survey whether they</p> <p>6 would consider display advertising to,</p> <p>7 for example, include advertising on</p> <p>8 social media sites, correct?</p> <p>9 MS. DEARBORN: Form.</p> <p>10 THE WITNESS: I did not</p> <p>11 ask, nor would it provide any</p> <p>12 useful information.</p> <p>13 BY MS. WOOD:</p> <p>14 Q. And you took no notes, and</p> <p>15 you're not aware of anyone else taking</p> <p>16 notes, about the responses that the</p> <p>17 14 preliminary interview participants</p> <p>18 gave on those questions, correct?</p> <p>19 A. That's correct.</p> <p>20 MS. DEARBORN: Objection to</p> <p>21 form. Asked and answered.</p> <p>22 THE WITNESS: That's</p> <p>23 correct.</p> <p>24 BY MS. WOOD:</p>	<p>1 for the reasons that I already explained.</p> <p>2 Q. And again --</p> <p>3 A. It was not important.</p> <p>4 I just wanted to see -- to</p> <p>5 hear how they talk about it, but that was</p> <p>6 not the purpose of those preliminary</p> <p>7 interviews.</p> <p>8 And the respondents are not</p> <p>9 economists. They are not definers of</p> <p>10 segments. And so -- and so I was not</p> <p>11 going to rely on their answers of -- of</p> <p>12 these respondents.</p> <p>13 But I just wanted to hear</p> <p>14 how they talk about it.</p> <p>15 Q. But having heard their</p> <p>16 answers to these questions, you chose not</p> <p>17 to ask that question in the online</p> <p>18 survey, correct?</p> <p>19 MS. DEARBORN: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: Of course</p> <p>22 not, for the reasons that I just</p> <p>23 indicated.</p> <p>24 BY MS. WOOD:</p>

<p style="text-align: right;">Page 182</p> <p>1 Q. And did the answers to</p> <p>2 Questions 20 and 23 influence any</p> <p>3 decisions you made on how to write the</p> <p>4 survey?</p> <p>5 A. No.</p> <p>6 Q. Why not?</p> <p>7 A. I designed the survey based</p> <p>8 on my, I would say, extensive experience</p> <p>9 and expertise in conducting thousands of</p> <p>10 surveys and evaluating thousands of</p> <p>11 surveys. And I tried to ask questions</p> <p>12 that I think are meaningful and are</p> <p>13 questions that respondents are capable of</p> <p>14 providing informative answers to.</p> <p>15 These would not be among</p> <p>16 those questions, so that's why I did not</p> <p>17 include them. They would -- they would</p> <p>18 be bad questions for the general survey.</p> <p>19 Q. Why would the Questions 20</p> <p>20 and 23 be bad questions for the general</p> <p>21 survey?</p> <p>22 MS. DEARBORN: Form.</p> <p>23 Go ahead.</p> <p>24 THE WITNESS: As I said,</p>	<p style="text-align: right;">Page 184</p> <p>1 Q. They could provide answers</p> <p>2 to those questions as to how they, as</p> <p>3 participants in the industry, view those</p> <p>4 advertising questions, correct?</p> <p>5 MS. DEARBORN: Form.</p> <p>6 THE WITNESS: I don't know</p> <p>7 if they can. I mean, you -- as I</p> <p>8 said, I don't think that they are</p> <p>9 in the position.</p> <p>10 That saying, we know from</p> <p>11 my survey that social is a</p> <p>12 substitute for display. And I</p> <p>13 prefer to test it in that way, as</p> <p>14 opposed to asking them</p> <p>15 pointblank, assuming they have</p> <p>16 some insights and they are</p> <p>17 familiar with definitions and</p> <p>18 somehow they can say -- define</p> <p>19 what is meant by alternative.</p> <p>20 I mean, after all,</p> <p>21 advertisers want to reach their</p> <p>22 customers, prospective customers,</p> <p>23 and get them to like their brand,</p> <p>24 to buy their product, and so on.</p>
<p style="text-align: right;">Page 183</p> <p>1 respondents are not economists.</p> <p>2 They are not antitrust attorneys.</p> <p>3 They don't define segments. It's</p> <p>4 not something they can provide</p> <p>5 meaningful answers to.</p> <p>6 And, therefore, while they</p> <p>7 were asked in these preliminary</p> <p>8 interviews, it would have been a</p> <p>9 mistake to ask such questions in</p> <p>10 the actual questionnaire.</p> <p>11 BY MS. WOOD:</p> <p>12 Q. Why would that be a mistake?</p> <p>13 A. I thought I just answered</p> <p>14 that.</p> <p>15 Q. Why would it be a mistake to</p> <p>16 ask them, even though they are not</p> <p>17 economists or antitrust specialists?</p> <p>18 MS. DEARBORN: Object to</p> <p>19 form. Asked and answered.</p> <p>20 THE WITNESS: I mean, they</p> <p>21 are not in a position to provide</p> <p>22 informative answers to such</p> <p>23 questions.</p> <p>24 BY MS. WOOD:</p>	<p style="text-align: right;">Page 185</p> <p>1 And I think that's the question.</p> <p>2 You can reach those people</p> <p>3 using banner ads. You can use,</p> <p>4 you know, Facebook, for example.</p> <p>5 Maybe for some -- some cases you</p> <p>6 can use Amazon. They have</p> <p>7 different ways to reach</p> <p>8 prospective customers and get</p> <p>9 them to take whatever action or</p> <p>10 to form judgment that you're</p> <p>11 interested in.</p> <p>12 And, therefore, these --</p> <p>13 these digital advertising</p> <p>14 categories, I mean, there -- you</p> <p>15 can say they are alternatives.</p> <p>16 Obviously, that was -- that is</p> <p>17 something that was tested in the</p> <p>18 survey.</p> <p>19 BY MS. WOOD:</p> <p>20 Q. But what do you recall about</p> <p>21 their answers to Questions 20 and 23,</p> <p>22 about whether they viewed them as</p> <p>23 alternatives?</p> <p>24 A. They don't --</p>

<p style="text-align: right;">Page 186</p> <p>1 MS. DEARBORN: Objection to</p> <p>2 form. Asked and answered.</p> <p>3 THE WITNESS: Yeah, I</p> <p>4 already -- as I said, given the</p> <p>5 limited purpose of those</p> <p>6 interviews, I didn't think it was</p> <p>7 important to remember their</p> <p>8 specific answers.</p> <p>9 BY MS. WOOD:</p> <p>10 Q. And you make a rule not to</p> <p>11 take notes?</p> <p>12 MS. DEARBORN: Form.</p> <p>13 THE WITNESS: There was no</p> <p>14 need to take notes in this case.</p> <p>15 BY MS. WOOD:</p> <p>16 Q. And you're not aware of</p> <p>17 anyone else taking notes or recording the</p> <p>18 answers in any way?</p> <p>19 MS. DEARBORN: Objection to</p> <p>20 form. Asked and answered.</p> <p>21 THE WITNESS: Right. Yeah,</p> <p>22 you -- as I said, that's correct.</p> <p>23 MS. WOOD: Why don't we</p> <p>24 take a break.</p>	<p style="text-align: right;">Page 188</p> <p>1 any of those four or five interviews?</p> <p>2 MS. DEARBORN: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: Not much.</p> <p>5 As I said, I could tell</p> <p>6 that these people are familiar</p> <p>7 with their companies' or business</p> <p>8 units' advertising decisions,</p> <p>9 what they use, and so on. That</p> <p>10 was about it.</p> <p>11 As I said, it was part of</p> <p>12 -- part of my assessment of AP</p> <p>13 and its panel and just wanted to</p> <p>14 hear them talk about their</p> <p>15 advertising, what they use.</p> <p>16 So it served its purpose,</p> <p>17 but I don't recall specific</p> <p>18 answers, nor did I expect to use</p> <p>19 specific answers to -- for any</p> <p>20 particular purpose, aside from</p> <p>21 what I said.</p> <p>22 BY MS. WOOD:</p> <p>23 Q. Do you think keeping notes</p> <p>24 of interviews is a basic rule in data</p>
<p style="text-align: right;">Page 187</p> <p>1 MS. DEARBORN: Sure.</p> <p>2 THE VIDEOGRAPHER: Going</p> <p>3 off the record at 12:43 p.m.</p> <p>4 - - -</p> <p>5 (Whereupon a luncheon</p> <p>6 recess was taken.)</p> <p>7 - - -</p> <p>8 A F T E R N O O N P R O C E E D I N G S</p> <p>9 - - -</p> <p>10 THE VIDEOGRAPHER: We're</p> <p>11 going back on the record at</p> <p>12 1:34 p.m.</p> <p>13 - - -</p> <p>14 CONTINUED EXAMINATION</p> <p>15 - - -</p> <p>16 BY MS. WOOD:</p> <p>17 Q. So before the break, we were</p> <p>18 talking about the 14 preliminary</p> <p>19 interviews, and I just want to make sure</p> <p>20 I canvass everything you recall about</p> <p>21 those interviews.</p> <p>22 With respect to the four to</p> <p>23 five high-spend advertiser interviews,</p> <p>24 what, if anything, do you recall about</p>	<p style="text-align: right;">Page 189</p> <p>1 preservation and proper research</p> <p>2 practice?</p> <p>3 MS. DEARBORN: Objection to</p> <p>4 form.</p> <p>5 THE WITNESS: Such a</p> <p>6 general question.</p> <p>7 As I indicated, in cases</p> <p>8 where I used such interviews,</p> <p>9 primarily, as I was working on</p> <p>10 research with my doctoral</p> <p>11 students, they did not take</p> <p>12 notes.</p> <p>13 They listened to the people</p> <p>14 they presented the research to,</p> <p>15 whatever they are doing. And</p> <p>16 then we met in person and</p> <p>17 discussed their impressions.</p> <p>18 They -- I don't recall</p> <p>19 anyone taking notes. I trusted</p> <p>20 their ability to give me the</p> <p>21 overall impression that they had</p> <p>22 in that particular -- on that</p> <p>23 particular study.</p> <p>24 BY MS. WOOD:</p>

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<p>1 will remain confidential and no</p> <p>2 one will know the respondent's</p> <p>3 name, somehow Google will try to</p> <p>4 find the name of respondents,</p> <p>5 look for those who use only</p> <p>6 Google and say, ah, that's a</p> <p>7 great opportunity. We should</p> <p>8 take advantage of the situation.</p> <p>9 I think it's a very</p> <p>10 nonsensical, inconceivable</p> <p>11 scenario. I think I stand behind</p> <p>12 the use of the term</p> <p>13 "hard-pressed."</p> <p>14 BY MS. WOOD:</p> <p>15 Q. Do you know how many of the</p> <p>16 survey respondents used Google Chrome to</p> <p>17 complete the survey?</p> <p>18 A. I don't recall asking that</p> <p>19 question. Google Chrome? I don't know.</p> <p>20 Q. Do you know how many survey</p> <p>21 respondents have a Gmail address?</p> <p>22 A. I don't.</p> <p>23 Q. Do you know how many survey</p> <p>24 respondents use the Gmail address to</p>	<p>1 MS. DEARBORN: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: No.</p> <p>4 MS. WOOD: Let's take a</p> <p>5 break.</p> <p>6 MS. DEARBORN: Sure.</p> <p>7 THE VIDEOGRAPHER: Going</p> <p>8 off the record at 4:18 p.m.</p> <p>9 (Short break.)</p> <p>10 THE VIDEOGRAPHER: We are</p> <p>11 going back on the record at</p> <p>12 4:38 p.m.</p> <p>13 BY MS. WOOD:</p> <p>14 Q. Now, we've talked throughout</p> <p>15 the day about the fact that each of your</p> <p>16 three surveys asked respondents how they</p> <p>17 would react to a "small but significant"</p> <p>18 increase in the cost of advertising.</p> <p>19 Do you recall that,</p> <p>20 generally?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And you would agree</p> <p>23 with me that "small but significant" is</p> <p>24 an inherently subjective term, right?</p>
Page 323	Page 325
<p>1 identify themselves in connection with</p> <p>2 the online survey?</p> <p>3 A. What do you mean by that?</p> <p>4 Q. How many respondents were</p> <p>5 sent the survey to an address at</p> <p>6 Gmail.com?</p> <p>7 A. So AP -- just to -- I think</p> <p>8 you know how it works, right?</p> <p>9 AP sends an invitation to</p> <p>10 prospective respondents and says, you</p> <p>11 know, here is a link to a survey about</p> <p>12 advertising. If you'd like to</p> <p>13 participate, please click on this link.</p> <p>14 Q. And how do they send that</p> <p>15 invitation? Do they send it to people's</p> <p>16 e-mail address?</p> <p>17 A. Yes.</p> <p>18 Q. And do you know how many of</p> <p>19 those e-mail addresses were Gmail</p> <p>20 addresses?</p> <p>21 A. I don't.</p> <p>22 Q. Did you ever talk to</p> <p>23 customers about concerns about Google</p> <p>24 retaliating against them?</p>	<p>1 MS. DEARBORN: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: It's a matter</p> <p>4 of how individuals interpret or</p> <p>5 understand this term, what it</p> <p>6 means to them personally.</p> <p>7 BY MS. WOOD:</p> <p>8 Q. And because it's not</p> <p>9 defined, there's no way to know what any</p> <p>10 given respondent thought a "small but</p> <p>11 significant price increase" actually</p> <p>12 meant, correct?</p> <p>13 MS. DEARBORN: Form.</p> <p>14 THE WITNESS: No. No.</p> <p>15 That's incorrect. That's</p> <p>16 incorrect.</p> <p>17 BY MS. WOOD:</p> <p>18 Q. How do we -- how can we</p> <p>19 determine what any given survey</p> <p>20 respondent thought a small but</p> <p>21 significant price increase meant?</p> <p>22 A. Small and significant, they</p> <p>23 are commonly used terms in the English</p> <p>24 language. On the one hand, it's small as</p>

<p style="text-align: right;">Page 326</p> <p>1 opposed to large. And significant, as we</p> <p>2 said earlier, it's not something that you</p> <p>3 would ignore. Doesn't mean it would</p> <p>4 affect you in any way, but it's something</p> <p>5 you would consider.</p> <p>6 So I think it's a very</p> <p>7 balanced term that I thought was a very</p> <p>8 good choice for my survey.</p> <p>9 Q. Is "small but significant" a</p> <p>10 term you've used in any other surveys</p> <p>11 before this one?</p> <p>12 A. I don't recall. I might</p> <p>13 have.</p> <p>14 Q. But you don't recall, as you</p> <p>15 sit here now, having ever used that term</p> <p>16 before?</p> <p>17 A. I've used other qualitative</p> <p>18 terms, as opposed to numerical terms,</p> <p>19 many times.</p> <p>20 Q. But I'm asking about the</p> <p>21 specific term "small but significant."</p> <p>22 Is that a phrase you've ever</p> <p>23 used before?</p> <p>24 A. For each survey, I use -- I</p>	<p style="text-align: right;">Page 328</p> <p>1 Q. Do you think it was you?</p> <p>2 A. I do not recall.</p> <p>3 Q. And as you sit here now, you</p> <p>4 can't think of any other time, in your</p> <p>5 30-plus-year career, that you've used</p> <p>6 that exact phrase, "small but</p> <p>7 significant"?</p> <p>8 A. I used different qualitative</p> <p>9 terms, if you will, that have -- that</p> <p>10 each person can interpret as it applies</p> <p>11 to him or her.</p> <p>12 Q. But that's not my</p> <p>13 question --</p> <p>14 A. But -- so I've used</p> <p>15 individual terms once and never again, if</p> <p>16 you will, in various surveys.</p> <p>17 So it -- I'm not sure if I</p> <p>18 ever used "small but significant." But,</p> <p>19 as I said, I don't recall the details of</p> <p>20 most of the surveys I've conducted.</p> <p>21 Q. How often have you used the</p> <p>22 phrase "small but significant" before</p> <p>23 this case?</p> <p>24 A. I do not recall. I cannot</p>
<p style="text-align: right;">Page 327</p> <p>1 may use a different term.</p> <p>2 Sitting here now, I don't</p> <p>3 recall. But it's possible.</p> <p>4 Q. And who came up with the</p> <p>5 phrase "small but significant"?</p> <p>6 A. I think it was something</p> <p>7 that I discussed with Analysis Group, and</p> <p>8 I found it was a very good term. And it</p> <p>9 was also discussed with counsel.</p> <p>10 Q. Again, I don't want to know</p> <p>11 about your conversations with counsel.</p> <p>12 MS. DEARBORN: Thank you.</p> <p>13 BY MS. WOOD:</p> <p>14 Q. But was the term "small but</p> <p>15 significant" a term that you came up with</p> <p>16 or that someone else came up with?</p> <p>17 A. So I don't recall,</p> <p>18 specifically. I believe it was something</p> <p>19 that my team at Analysis Group and I came</p> <p>20 up with and then discussed with counsel.</p> <p>21 Q. Do you know whether it was</p> <p>22 someone at Analysis Group or you that</p> <p>23 first came up with the term?</p> <p>24 A. I don't recall.</p>	<p style="text-align: right;">Page 329</p> <p>1 assess the number of times.</p> <p>2 Q. And you would agree with me</p> <p>3 that one respondent could have</p> <p>4 interpreted the phrase "small but</p> <p>5 significant" to indicate 5 percent, for</p> <p>6 example, but a different respondent might</p> <p>7 have interpreted that phrase to mean 35</p> <p>8 or 40 percent, correct?</p> <p>9 MS. DEARBORN: Form.</p> <p>10 THE WITNESS: Not at all.</p> <p>11 As I said earlier, based on</p> <p>12 my understanding of survey</p> <p>13 takers' behavior and how they</p> <p>14 answer questions, they will take</p> <p>15 the term "small but significant"</p> <p>16 as it -- as it means.</p> <p>17 They will not go the extra</p> <p>18 step and say, okay, let's</p> <p>19 speculate that small but</p> <p>20 significant is 3 percent,</p> <p>21 30 percent, 10 percent. They</p> <p>22 have no basis for doing that nor,</p> <p>23 based on my experience, will they</p> <p>24 do that.</p>

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1 answering the question.

2 BY MS. WOOD:

3 Q. But if I come up with a

4 number that's small but significant to

5 me, that doesn't mean that same number

6 would be small but significant to you,

7 correct?

8 A. I thought I just answered

9 that.

10 No, you will not come up,

11 if -- I mean, obviously, you're involved

12 in this case, so you're not the typical

13 respondent.

14 But speaking of typical

15 respondents, they would not start

16 speculating about a specific number. So,

17 therefore, it's not like one respondent

18 thinks about Number X and the other one

19 thinks about Number Y. What basis do

20 they have to -- for such speculations?

21 Q. Regardless of the nature of

22 the speculation, it is possible -- strike

23 that.

24 You say in your report at

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1 Footnote 5, on Page 7, "This phrase,"
2 small but significant, "was designed to
3 leave it to the respondents to consider
4 their reaction, if any, if (what they
5 considered to be) 'a small but
6 significant' increase in the cost of
7 programatic display advertising
8 occurred."
9 Right?
10 A. Right.
11 Q. And then you say in
12 Footnote 65 of your report, on Page 39,
13 that "The balanced phrasing of 'small but
14 significant' avoids possible demand
15 effects whereby respondents might have
16 assumed that certain answers were
17 expected or preferred."
18 Can you describe how "small
19 but significant" is balanced phrasing, in
20 your view?
21 A. Okay. Small is usually
22 contrasted with big, and significant is
23 contrasted with insignificant.
24 One goes in one direction.

<p style="text-align: right;">Page 358</p> <p>1 Q. Let's say, hypothetically,</p> <p>2 that AdTech tools are -- represent</p> <p>3 30 percent of the cost of a display ad.</p> <p>4 A. Okay.</p> <p>5 Q. And if you tell respondents</p> <p>6 that the cost of display ads goes up by a</p> <p>7 small but significant amount, but you</p> <p>8 don't tell them that the 30 percent cost</p> <p>9 of the AdTech tool goes up by a small but</p> <p>10 significant amount, you are necessarily</p> <p>11 causing the respondent to imagine a</p> <p>12 higher increase in cost than if you had</p> <p>13 them focus on the cost of the tool alone.</p> <p>14 MS. DEARBORN: Objection to</p> <p>15 form.</p> <p>16 BY MS. WOOD:</p> <p>17 Q. Do you understand that?</p> <p>18 A. I understand the question.</p> <p>19 Two things. A, the survey</p> <p>20 tested what happens if they are told that</p> <p>21 the cost of display advertising, or</p> <p>22 programatic display advertising, went up</p> <p>23 by a small but significant amount.</p> <p>24 That's what I tested. It is what it is.</p>	<p style="text-align: right;">Page 360</p> <p>1 have the data about the extent of</p> <p>2 diversion. And if most</p> <p>3 respondents say that it's between</p> <p>4 7 and 10, it means that maybe if</p> <p>5 it was lower than that, maybe the</p> <p>6 scale numbers would range</p> <p>7 between -- I don't want to</p> <p>8 speculate.</p> <p>9 Maybe they would have been</p> <p>10 somewhat lower, but there still</p> <p>11 would be substitution observed.</p> <p>12 BY MS. WOOD:</p> <p>13 Q. And by focusing on a higher</p> <p>14 cost than the cost of the AdTech tools</p> <p>15 alone, that has the potential to create</p> <p>16 demand effect, does it not?</p> <p>17 A. Not at all. It has nothing</p> <p>18 to do with demand effect.</p> <p>19 Q. If you were retained in a</p> <p>20 case where the plaintiffs sued Ford for</p> <p>21 monopolizing the market for truck</p> <p>22 chassises, would you ask participants</p> <p>23 about a potential increase in the price</p> <p>24 of Ford trucks overall, or a potential</p>
<p style="text-align: right;">Page 359</p> <p>1 Furthermore, as you know, I</p> <p>2 asked, later, the question about the</p> <p>3 magnitudes of diversion to each one, on a</p> <p>4 0 to 10 scale, and the most common</p> <p>5 answers were between 7 and 10, which</p> <p>6 means that respondents are thinking about</p> <p>7 substantial increases.</p> <p>8 So in case, let's say, it</p> <p>9 was -- the actual increase was somewhat</p> <p>10 lower, maybe the scale numbers would have</p> <p>11 been somewhat lower than between 7 and</p> <p>12 10. But there would still be diversion,</p> <p>13 which is what my survey tested and</p> <p>14 showed.</p> <p>15 Q. But you agree that if your</p> <p>16 survey had asked about a fraction of the</p> <p>17 costs of display advertising increasing</p> <p>18 and not all of the display advertising</p> <p>19 cost increasing, you could expect to see</p> <p>20 a different level of diversion than what</p> <p>21 you got in your sample?</p> <p>22 MS. DEARBORN: Form.</p> <p>23 THE WITNESS: As I just</p> <p>24 said, that's not the case. We</p>	<p style="text-align: right;">Page 361</p> <p>1 increase in the price of the truck</p> <p>2 chassises?</p> <p>3 MS. DEARBORN: Form.</p> <p>4 THE WITNESS: Yeah, I take</p> <p>5 survey design very seriously.</p> <p>6 And if I were asked to conduct a</p> <p>7 survey on this topic, I would</p> <p>8 think about it and figure out</p> <p>9 what's the right way to do.</p> <p>10 Sitting here now, I cannot</p> <p>11 design the right survey and,</p> <p>12 therefore, cannot answer this</p> <p>13 question.</p> <p>14 BY MS. WOOD:</p> <p>15 Q. But isn't the relevant</p> <p>16 question whether the monopolized product</p> <p>17 price changes, not whether some larger</p> <p>18 price changes?</p> <p>19 MS. DEARBORN: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: I hate to</p> <p>22 repeat myself.</p> <p>23 As I said, the survey</p> <p>24 looked at the effect on</p>

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<p>1 Q. Did you do anything during</p> <p>2 this deposition, including on the last</p> <p>3 break, to refresh your recollection about</p> <p>4 the number of respondents who put ten</p> <p>5 down as nonprofit?</p> <p>6 MS. DEARBORN: And please</p> <p>7 set aside communications with</p> <p>8 counsel.</p> <p>9 THE WITNESS: So I didn't</p> <p>10 go back at the data. The answer</p> <p>11 was pretty straightforward. I</p> <p>12 just went back to my report and</p> <p>13 thought about it. I said, well,</p> <p>14 respondents could have indicated</p> <p>15 that they were a nonprofit in</p> <p>16 Question S8. However they were</p> <p>17 excluded from the survey later,</p> <p>18 for example, because they were</p> <p>19 not using display advertising.</p> <p>20 BY MS. WOOD:</p> <p>21 Q. But you didn't look at data</p> <p>22 to make that assessment. You just did</p> <p>23 that based on inference?</p> <p>24 A. Well, as I said, I</p>	<p>1 - - -</p> <p>2 *****</p> <p>3 (Excused.)</p> <p>4 (Deposition concluded at</p> <p>5 approximately 5:53 p.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
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<p>1 personally counted the number of</p> <p>2 nonprofit respondents in the data for</p> <p>3 both the large -- large segment and small</p> <p>4 segment. So I'm confident about that.</p> <p>5 And there were ten</p> <p>6 respondents in the large segment who</p> <p>7 identified as being in a nonprofit.</p> <p>8 Q. And what about government.</p> <p>9 Is the number two for government an</p> <p>10 accurate number, as far as you know?</p> <p>11 A. I didn't look at government.</p> <p>12 Q. Okay. And same for the</p> <p>13 low-spend, you didn't look at government</p> <p>14 there either?</p> <p>15 A. No.</p> <p>16 MS. WOOD: No further</p> <p>17 questions, subject to the</p> <p>18 reservation of rights.</p> <p>19 MS. DEARBORN: And subject</p> <p>20 to our prior discussion.</p> <p>21 THE VIDEOGRAPHER: And we</p> <p>22 are going off the record at</p> <p>23 5:53 p.m.</p> <p>24 Thank you.</p>	<p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4</p> <p>5 I HEREBY CERTIFY that the</p> <p>6 witness was duly sworn by me and that the</p> <p>7 deposition is a true record of the</p> <p>8 testimony given by the witness.</p> <p>9</p> <p>10 It was requested before</p> <p>11 completion of the deposition that the</p> <p>12 witness, ITAMAR SIMONSON, Ph.D., have the</p> <p>13 opportunity to read and sign the</p> <p>14 deposition transcript.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p><i>Michelle L. Gray</i></p> <p>MICHELLE L. GRAY, A Registered Professional Reporter, Certified Shorthand Reporter, Certified Realtime Reporter and Notary Public Dated: February 29, 2024</p> <p>(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)</p>